



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/574,681

04/04/2006

Sacha Felder

3621

1764

7590
Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

09/12/2011

EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

09/12/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,681	Applicant(s) FELDER, SACHA	
	Examiner CLARK F. DEXTER	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-12,14,15,17-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) 2,7,8,11,12,14,15,17,18,22 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-6,10,19-21,24 and 25 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The after-filed amendment filed on July 18, 2011 has been entered. It is respectfully submitted that the indicated allowability of the claims is withdrawn in view of the newly discovered reference(s) to Wu, PG Pub. No. 2005/0262707, now patent no. 7,513,047. Further, the finality of the previous Office action mailed on May 20, 2011 has been **withdrawn**. Rejections based on the newly cited reference(s) follow. The late discovery of the reference(s) is regretted. Because the new grounds of rejection were not necessitated by applicant's amendment, this Office action is being made **non-final**.

Election/Restrictions

2. Due to the withdrawal of the indication of allowability, the restriction requirement has been restored and the previously-withdrawn claims have again been withdrawn.

Claim Rejections - 35 USC § 112, 2nd paragraph

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5, 6 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, lines 2-3, the recitation "at least largely decoupled" renders the claims vague and indefinite as to whether the actuating elements are coupled or not, and if so, to what amount.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 10, 24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu, PG Pub. No. 2005/0262707 (hereafter Wu '707).

Wu '707 discloses a power tool with every structural limitation of the claimed invention including:

a housing (e.g., 2), wherein a part of said housing forms a barrel grip;
an electrical switch (e.g., 103) located inside said housing to activate and deactivate said hand-held power tool, said barrel grip comprising a first on-off switch (e.g., 100) to activate and deactivate said hand-held power tool;

a detachable top handle (e.g., 10, see Fig. 4), wherein said detachable top handle is configured to be attachable and detachable from said housing to form an additional grip for an operator of said hand-held power tool; and

an attaching device (e.g., the attaching structure at both ends of the handle 10) for attaching said detachable top handle to said housing,

wherein said barrel grip is provided to guide said hand-held power tool when said detachable top handle is not attached to said housing via said attaching device, wherein said detachable top handle is substantially round-shaped and has a cross section permitting said detachable top handle to be grasped around with one hand of an operator, wherein a second on-off switch (e.g., 12) is at least partially integrated into said detachable top handle to activate and deactivate said hand-held power tool in an attached state of said detachable top handle,

wherein said first on-off switch is integrated into the barrel grip, wherein said first on-off switch and said second on-off switch are both connected to said electrical switch (e.g., see Fig. 1);

[claim 10] wherein the second on-off switch is at least in part integrally joined to said first on-off switch;

[claim 24 (from 10)] wherein said part which is integrally joined with said on-off switch of said top handle and with said second on-off switch of said barrel grip is configured as an electrical switch;

[claim 25 (from 10)] wherein a detent mechanism comprises a retaining tab which locks said second on-off switch when said top handle is attached to said housing.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3724

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wu, PG Pub. No. 2005/0262707 (hereafter Wu '707) in view of any one of Mitchell, pn 2,346,778 (hereafter Mitchell '778), Mitchell, pn 2,373,842 (hereafter Mitchell '842), Happe, pn 2,711,461 (hereafter Happe '461) and Happe, pn 3,209,109 (hereafter Happe '109).

Wu '707 discloses a power tool with almost every structural limitation of the claimed invention **but lacks** a locking mechanism as follows:

[claim 4] wherein a locking mechanism for locking said second on-off switch is integrated into said top handle.

However, the Examiner takes Official notice that such locking mechanisms are old and well known in the art and provide various well known benefits including facilitating one-handed operation of a tool by maintaining the tool in an "on" position during a desired operation thereof. Many examples of such locking mechanisms are known. The following are some of such examples: Mitchell '778, Mitchell '842, Happe '461 and Happe '109 each discloses such a locking mechanism. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a locking mechanism on the device of Wu '707 to gain the well known benefits including that described above as well as those taught by the above-described prior art.

9. Claims 5, 6 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wu, PG Pub. No. 2005/0262707 (hereafter Wu '707) in view of any one of Mitchell, pn 2,346,778 (hereafter Mitchell '778), Mitchell, pn

Art Unit: 3724

2,373,842 (hereafter Mitchell '842), Happe, pn 2,711,461 (hereafter Happe '461) and Happe, pn 3,209,109 (hereafter Happe '109). as applied to claim 4 above, and further in view of Chen, pn 6,653,584..

The combination teaches and/or suggests almost every structural limitation of the claimed invention **but lacks** the locking mechanism having first and second actuating elements as follows:

[claim 5 (from 4)] wherein said locking mechanism (20) has at least two at least largely decoupled actuating elements (22, 24);

[claim 6 (from 5)] wherein said actuating elements (22, 24) are situated on opposite sides of said top handle (12);

[claim 19 (from 5)] wherein said actuating elements are configured so that they are actuatable directly by a user;

[claim 20 (from 5)] wherein said actuating elements are comprised of separate components;

[claim 21 (from 5)] wherein said actuating elements are arranged to provide a device useable for left-handers and right-handers with same requirements.

However, it would have been obvious to one having ordinary skill in the art to simply provide a second actuating element for the locking mechanism such that an actuating element of the locking mechanism is on each side of the handle so as to make the actuating elements equally accessible when a tool is used by either hand. Further, it is respectfully submitted that the addition of a second such actuating element amounts

Art Unit: 3724

to a duplication of parts and the courts have held that a mere duplication of parts has no patentable significance unless a new and unexpected result is produced. In the present combination, no such unexpected results are produced. Further, Chen discloses one example of a tool with a locking mechanism having such first and second actuating elements. Therefore, it would have been obvious to one having ordinary skill in the art to provide a locking mechanism with first and second actuating elements, either in a configuration such as Chen or in a configuration that includes simply providing first and second actuating elements of the type taught by the Mitchell and Happe patents, such that the locking mechanism includes an actuating element on each side of the handle to gain the well known benefits including that described above as well as those taught by the applied prior art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLARK F. DEXTER whose telephone number is (571)272-4505. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/CLARK F DEXTER/
Primary Examiner, Art Unit 3724**

cfd
September 9, 2011